UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JEYHAN KARAOGUZ and JAMES D. BENNETT

_____

Appeal 2009-008957
Application 10/672,601
Technology Center 2400

_____

Before JOSEPH L. DIXON, THU A. DANG,
and JAMES R. HUGHES, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 16-49. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

A. INVENTION

Appellants' invention relates to a Media Processing System (MPS) having a Media Management System (MMS) comprising a software platform operating on at least one processor that provides automatic control and status monitoring of media peripheral devices (¶¶ [0045]-[0046]).

B. ILLUSTRATIVE CLAIM

Claim 16 is exemplary:

16.   A method for automatically monitoring at least one media peripheral via a communication network, the method comprising:

automatically identifying by a first system, at a first location, the at least one media peripheral communicatively coupled to one or both of the first system and/or a second system, the second system at a second location;

automatically establishing a communication link between the first system and the at least one media peripheral;

automatically determining authorization for monitoring of the at least one media peripheral;

automatically monitoring, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful; and

automatically responding, by the first system, to a state of
the at least one status parameter, if the authorization is
successful.

C. REJECTION

The prior art relied upon by the Examiner in rejecting the claims on

appeal is:

Narasimhan	US 6,446,192 B1	Sep. 03, 2002
Eytchison	US 6,363,434 B1	Mar. 26, 2002
Krzyzanowski	US 2004/0003051 A1	Jan. 01, 2004
		(filed on Jun. 27, 2002)
Hino	US 7,237,029 B2	Jun. 26, 2007
		(filed on Jul. 27, 2001)

Claims 16, 19-23, 25, 27, 29-32, 35-39, 41, 43, and 45-49 stand

rejected under 35 U.S.C. 103(a) as being unpatentable over Hino in view of

Narasimhan.

Claims 17-18, 26, 28, 33, 34, 42, and 44 stand rejected under 35

U.S.C. 103(a) as being unpatentable over Hino in view of Narasimhan and

Krzyzanowski.

Claims 24 and 40 stand rejected under 35 U.S.C. 103(a) as being

unpatentable over Hino in view of Narasimhan and Eytchison.

II. ISSUES

The issues are whether the Examiner has erred in determining that the

combination of Hino and Narasimhan teaches or would have suggested:

1. "*automatically* monitoring at least one media peripheral,"

"*automatically* establishing a communication link," "*automatically*

determining authorization," and "automatically *monitoring*, by the first

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system, *at least one status parameter* of the at least one media peripheral"
(claim 16, emphasis added);

2. "wherein the *at least one* status parameter *comprises* battery level,
an 'on/off' indication, an amount of storage used, an amount of storage
remaining, a 'within range' indication, a software version, a model number,
a serial number, and a certificate ID" (claim 21, emphasis added); and

3. "wherein the establishing the communication link is automatically
initiated by the first system" (claim 30, emphasis added).

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of
the evidence.

Hino

1. Hino is directed to a remote control system, having a gateway
(GW) apparatus 10, capable of controlling home appliances 31, 32 coupled
to a home network 30; wherein, home appliances are remote-controlled from
a control device 60 or mobile terminals, such as a cellular phone, PDA, or
notebook type of PC, connected by an outside network 50 to the GW
apparatus 10 (Fig. 1; col. 2, ll. 40-47 and col. 9, ll. 7-10). The GW apparatus
10 acts as a mediator between communication protocols employed by the
home network 30 and the outside network 50 (col. 6, ll. 41-50).

2. For example, the GW apparatus functions as a central controller
within a building; wherein, a keyboard connected to the GW apparatus may
issue a request for panel information about appliances, such as air
conditioners, lighting fixtures, and doors, to monitor their present status, or
the keyboard may issue a command to control the operation of air

conditioners, the turning lighting fixtures on or off, and the opening/closing of doors (col. 9, ll. 11-18).

3. The GW apparatus 10 includes an appliance panel information inputting means 12 that regularly searches and acquires the status of the control panels on each of the home appliances 31 and 32, including the operational ranges if the panel part is a slide part, rotation part, or a push button part (col. 6, ll. 41-64; col. 7, ll.15-20; and col. 7, ll. 54-61).

4. The GW apparatus 10 also includes a gateway apparatus information memorizing means 13 memorizes pertinent information relative to whether or not a control command input sent from the outside network 50 is acceptable (col. 2, ll. 51-63 and col. 8, ll. 46-56). Specifically, when a request for acquiring appliance panel information is received, an appliance control command producing means 11 within the GW apparatus determines whether or not the control command input should be accepted (col. 2, ll. 40-63; col. 6, ll. 41-64; and col. 7, ll. 54-61).

5. The GW apparatus also includes a use key information inputting means 20 that determines whether or not a control device 60 satisfies a given use key information condition and permits access only when the use condition is satisfied; wherein, the use key information inputting means 20 acquires and stores the use key information having a conditional expression (step 65) (Fig. 38; col. 15, ll. 33-43; col. 16, ll. 5-20).

6. The appliance control command producing means 11 determines whether or not to enable a requested command issued by the control device 60 based on the user response and the stored use key information (step 66) (Fig. 39 col.15, ll. 58-67).

7.   The conditional expression may include an acceptable range of
time, an acceptable location, acceptable terminal IDs, or user identification
data (IDs, fingerprints, etc.) (col. 16, ll. 5-20). User identification
information may be set using authentication information found on the
mobile terminal connected to network 50, wherein the terminal has an
authentication function or information that proves authentication for an
authentication service (col.19, ll.6-10).

Narasimhan

8.   Narasimhan is directed to an automated software program
within a client 30 that accesses data of a remote device 34 connected to the
client device through a network 32 (col. 5, ll. 53-56).

IV. ANALYSIS

Claims 16, 19, 20, 22, 23, 25, 27, 29, 31, 32, 35, 36,

38, 39, 41, 43, 45, and 47-49

Appellants do not provide separate arguments with respect to
independent claims 16 and 32 (App. Br. 6-8). Further, Appellants do not
provide separate arguments with respect to claims 19, 20, 22, 23, 25, 27, 29,
31, 35, 36, 38, 39, 41, 43, 45, and 47-49 depending from claims 16 and 32.
Accordingly, we select independent claim 16 as being representative of the
claims. *See* 37 C.F.R. § 41.37(c)(1)(vii).

In the Appeal Brief, Appellants contend that the combined teachings
do not describe, teach or suggest "automatically monitoring, by the first
system, at least one status parameter of the at least one media peripheral,"
wherein the "'method for automatically monitoring at least one media
peripheral'" comprises "'automatically determining authorization for

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monitoring of the at least one media peripheral'" (App. Br. 6); because, "while an input device, such as *the control device 60 [as a first system]*, is operable to allow a user to input commands into a system, an input device, such as the control device, is incapable of monitoring such system" (App. Br. 8, emphasis added). Appellants argue further that Hino does not describe, teach, or suggest "any 'automatic steps'" (App. Br. 9-10) and that Narasimhan "does not describe, teach or suggest, however, 'automatically establishing a communication link,' 'automatically determining authorization for monitoring' and/or 'automatically monitoring at least one status parameter of the at least one media peripheral, if the authorization is successful" (App. Br. 11).

However, the Examiner finds that "Hino discloses that a GW apparatus operates to produce that panel information in part by searching each home appliance for panel information ... where the panel information is comprised at least in part of the status or state information of those home appliances" (Ans. 9). The Examiner notes further that "Hino teaches that the state changes of the Home appliances get sent to the control devices in the form of panel information" (*id.*). Thus, "Hino's control devices actively receive updated state or 'status parameter' changes which are reflected in the panel information display that the control device uses to issue commands to the home appliances" (Ans. 10).

The Examiner also notes that the "rejection of these limitations is based on the combination of Hino and Narasimhan and, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references" (Ans. 11). In particular, the Examiner

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notes that he does not rely "upon Hino for the idea that these steps are performed automatically" *(id.)*.

In the Supplemental Reply Brief, Appellants contend that the Examiner still errs in that he "maps" "the 'control device 60' of Hino as the 'first system,' the 'GW apparatus 10' of Hino as the 'second system,' and the 'home appliance 31 or 32' of Hino as the media peripheral" (Reply Br. 2). Appellants assert that the Examiner "has not explained how the control device 60, such as a keyboard of the GW apparatus 10 can monitor anything, let alone a home appliance or media peripheral" (Reply Br. 3). Appellants contend further that the Examiner errs in that "the Examiner seemingly stands for the proposition that the cited references do not have to describe, teach or suggest all the recited limitations of a claim" and "has cited no authority that stands for the proposition that a combination of references can render a claim unpatentable despite the fact that none of the cited references describe, teach or suggest a particular limitation(s)" (Supp. Reply Br. 4).

To determine whether Wall discloses "automatically establishing a communication link," "automatically determining authorization," and "automatically monitoring, by the first system, at least one status parameter of the at least one media peripheral, if the authorization is successful" as required by claim 16, we give the claim its broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). However, we will not read limitations from the Specification into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

Claim 16 does not place any limitation on what "status parameter," "automatically," and a "first system" means, includes, or presents. Thus, we

give the claim its broadest reasonable interpretation as a *self-initiating*
method of monitoring a peripheral device by *any system*, wherein the system
self-initiates the communications path, authorization, and monitoring of any
status parameters, as consistent with the Specification and as specifically
defined in claim 16.

Hino is directed to a remote control system, having a gateway (GW)
apparatus, capable of remotely controlling home appliances from a control
device or mobile terminals, such as a cellular phone, PDA, or notebook type
of PC, through an outside network (FF 1). An appliance panel information
inputting means within the GW apparatus *regularly searches and acquires
the status of the control panels* on each of the home appliances, including
the operational ranges of sliding, rotating, or push button parts (FF 3). We
find the GW apparatus coupled to the control device to be *the first system*
that monitors the status of each peripheral device, such as a home appliance.

In Hino, *there are two methods that the GW apparatus uses to
establish authorization to control an appliance*, wherein in the first method
the GW apparatus uses an appliance control command producing means and
a gateway apparatus information memorizing means, which stores pertinent
access information, to determine whether or not control command inputs
sent from the outside network are acceptable (FF 4). The second
authorization method of the system uses a use key information inputting
means that acquires and stores use key information having a conditional
expression to determine whether or not a control device satisfies the
conditional expression and to permit access only when this condition is
satisfied (FF 5 and 6). The conditional expression may include an
acceptable range of time, an acceptable location, acceptable terminal IDs, or

user identification data (IDs, fingerprints, etc.) (FF 7). User identification information may be set using *authentication information* found on a mobile terminal having an *authentication function* requesting access and control of the home appliances (*id.*).

We find that *both authorization methods* determine the authorization of monitoring the home appliance; wherein, the monitoring of the status of panel information does not occur until after the authorization is successful. Particularly, we find the authorization function and information provides the step of determining the authorization.

Narasimhan is directed to an automated software program within a client that accesses data of a remote device connected to the client device through a network (FF 8). Accordingly, we find the automated software program used to enhance the GW apparatus teaches the automated portion of features as claimed.

The Supreme Court has stated that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

Thus, we find no error in the Examiner's finding that the combination of Hino's system (including the GW apparatus and the control device) that monitors and controls home appliances with the automated software program, as disclosed in Narasimhan, produces an automated system that enables a device to access, monitor, and control a connected peripheral device which would be obvious (Ans. 4 and 9-10; FF 1 and 8).

Accordingly, we find that Appellants have not shown that the Examiner erred in rejecting claims 16 and 32 and claims 19, 20, 22, 23, 25,

27, 29, 31, 35, 36, 38, 39, 41, 43, 45, and 47-49 depending from claims 16 and 32 under 35 U.S.C. § 103(a) over Hino and Narasimhan.

Claims 21 and 37

Appellants do not provide separate arguments for patentability with respect to claims 21 and 37 (App. Br. 15). Accordingly, we select claim 21 as being representative of the claims.

Appellants contend that although "Hino discloses that lighting fixtures may be turned on/off, it does not describe, teach or suggest at least one status parameter that includes each of (1) a battery level, (2) an 'on/off' indication, (3) an amount of storage used, (4) an amount of storage remaining, (5) a "within range" indication, (6) a software version, (7) a model number, (8) a serial number, and (9) a certificate ID" (App. Br. 15).

The Examiner however finds that "Hino teaches a control device receiving state or status information of home appliances" (Ans. 12). The Examiner notes that "Hino further teaches that the GW apparatus monitors the status and allows to be controlled the turning off and on of lighting fixtures" (*id.*).

In the Reply Brief, Appellants contend that "the claim requires that the at least one status parameter *include all nine* listed status parameters" (Reply Br. 6, emphasis added).

Claim 21 places a limitation on the minimum number of "status parameters" that must be monitored to be *"at least one."* The list following the term "comprising" constitutes an *open-ended list*, since the transitional term "comprising" is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. *Mars Inc. v. H.J. Heinz Co.*, 377 F.3d 1369, 1376, (Fed. Cir. 2004). Claim 21 and claim 16 from which it

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depends, however, require that *only "at least one"* status parameter be monitored. Thus, we give the claim its broadest reasonable interpretation as monitoring *any one* status parameter *selected from the group* including battery level, an 'on/off' indication, an amount of storage used, an amount of storage remaining, a 'within range' indication, a software version, a model number, a serial number, and a certificate ID, as consistent with the Specification and as specifically defined in claim 21. That is, we will not read the claim language to require that all nine of the status parameters listed be monitored as Appellants argue (App. Br. 15; Reply Br. 2).

As noted *supra*, Hino is directed to a remote control system, having a gateway (GW) apparatus, capable of controlling home appliances by regularly searching the status of the panel controls for each home appliance (FF 1). The GW apparatus can be used as a central controller in a building, wherein a control device may issue a command to control the operation of air conditioners, *the turning lighting fixtures on or off*, and the opening/closing of doors (FF 2). Thus, we find the function of turning lighting fixtures on or off to be the status parameter of the "'on/off' indication."

Accordingly, we find that Appellants have not shown that the Examiner erred in rejecting claims 21 and 37 under 35 U.S.C. § 103(a) over Hino and Narasimhan.

Claims 30 and 46

Appellants do not provide separate arguments for patentability with respect to claims 30 and 46 (App. Br. 15-16). Accordingly, we select claim 30 as being representative of the claims.

Appellants contend that the "while an input device, such as the control device 60, is operable to allow a user to input commands into a system, an input device, such as the control device, is incapable of automatically initiating an establishment of a communication link" (App. Br. 15).

The Examiner, however, notes that "Narasimhan is providing a teaching of improving Hino's control device by programming it to operate automatically to acquire information from" GW about home appliances (Ans. 13).

Claim 30 does not place any limitation on *how* the communication link is "established." Thus, we give the claim its broadest reasonable interpretation as any component of the first system *self-initiates* a connection between the system and the peripheral device for the purpose of transmitting data between the system and the peripheral device, as consistent with the Specification and as specifically defined in claim 30.

As noted *supra*, Hino is directed to the GW apparatus that monitors status information of panel controls on home appliances connected to a home network to control these appliances with commands issued either by the control device or through a device connected through an outside network (FF 1). The *GW apparatus acts as a mediator between communication protocols* employed by the home network and the outside network (FF 1). We find *the control device and GW apparatus,* coupled as one unit, to be the system that monitors the peripherals. We find further the connection compatible with the communication protocol of the home network and the outside network to be the established communication link between the system and the home appliances.

As noted *supra*, Narasimhan discloses an automated software program as a client that accesses data of a network connected to a peripheral device (FF 8). Accordingly, we find that the combined teachings of Hino and Narasimhan at least suggests the automated software program used to enhance the GW apparatus *and* the control device to be the first system that self-initiates a connection between the system and the peripheral device for the purpose of transmitting data between the system and the peripheral device as claimed.

Accordingly, we find that Appellants have not shown that the Examiner erred in rejecting claims 30 and 46 under 35 U.S.C. § 103(a) over Hino and Narasimhan.

Claims 17-18, 24, 26, 28, 33-34, 40, 42, and 44

Appellants submit that the proposed combination of Hino in view of Narasimhan and Krzyzanowski does not render the claims unpatentable for the reasons previously presented and Appellants do not provide arguments for claims 17-18, 24, 26, 28, 33-34, 40, 42, and 44 (App. Br. 16). As Appellants have not shown the Examiner erred in rejecting claims 16 and 32, we also affirm the rejection of claims 24 and 40 over the combined teachings of Hino, Narasimhan and Eytchison and the rejection of claims 17-18, 26, 28, 33-34, 42, and 44 over the combined teachings of Hino, Narasimhan and Krzyzanowski under 35 U.S .C. § 103(a).

V. CONCLUSION AND DECISION

The Examiner's rejection of claims 16-49 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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